


06/13/01

Jc961 U.S. PTO

Please type a plus sign (+) inside this box → PTO/SB/50 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REISSUE PATENT APPLICATION TRANSMITTAL

Address to: Assistant Commissioner for Patents Box Reissue Washington, DC 20231	Attorney Docket No.	S1011
	First Named Inventor	Harold Brodie
	Original Patent Number	5,980,620
	Original Patent Issue Date (Month/Day/Year)	11/9/1999
	Express Mail Label No.	EL 729629318 US

APPLICATION FOR REISSUE OF:

(Check applicable box)



Utility Patent



Design Patent



Plant Patent

APPLICATION ELEMENTS (37 CFR 1.173)

1. ☒ Fee Transmittal Form (PTO/SB/56)
(Submit an original, and a duplicate for fee processing)
2. ☐ Applicant claims small entity status. See 37 CFR 1.27.
3. ☒ Specification and Claims in double column copy of patent
format (amended, if appropriate)
4. ☐ Drawing(s) (proposed amendments, if appropriate)
5. ☒ Reissue Oath/Declaration (original or copy)
(37 C.F.R. § 1.175) (PTO/SB/51 or 52)
6. ☒ Power of Attorney— See Consent of Assignee
7. Original U.S. Patent currently assigned? ☒ Yes ☐ No
(If Yes, check applicable box(es))
 - ☒ Written Consent of all Assignees (PTO/SB/53)
 - ☒ 37 C.F.R. § 3.73(b) Statement
(PTO/SB/96)
8. ☐ CD-ROM or CD-R in duplicate, Computer Program (Appendix)
or large table
9. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all of the following are necessary)
 - a. ☐ Computer Readable Form (CFR)
 - b. Specification Sequence Listing on:
 - i ☐ CD-ROM (2 copies) or CD-R (2 copies); or
 - ii ☐ paper
 - c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

10. ☒ Statement of status and support for all changes
to the claims. See 37 CFR 1.173 (c).
11. ☐ Original U.S. Patent for surrender
 - ☐ Ribbonded Original Patent Grant
 - ☐ Statement of Loss (PTO/SB/55)
12. ☐ Foreign Priority Claim (35 U.S.C. 119)
(if applicable)
13. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS
Citations
14. ☐ English Translation of Reissue Oath/Declaration
(if applicable)
15. ☒ Preliminary Amendment
16. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
17. Other: Request for Title Report
Certification Request to
Provoke Interference....

18. CORRESPONDENCE ADDRESS

<input checked="" type="checkbox"/> Customer Number or Bar Code Label	03000	or <input checked="" type="checkbox"/> Correspondence address below	
(Insert Customer No. or Attach bar code label here)			
Name	Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd.		
Address	1635 Market Street - 12th Floor Seven Penn Center		
City	Philadelphia,	State	PA
Country	USA	Telephone	(215) 567-2010
Zip Code	19103-2212	Fax	(215) 751-1142

NAME (Print/Type)	Robert S. Silver	Registration No. (Attorney/Agent)	35,681
Signature		Date	June 13, 2001

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Reissue, Washington, DC 20231.

09880556

PTO/SB/17 (11-00)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**FEE TRANSMITTAL
for FY 2001**

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$)**1730.00****Complete if Known**

Application Number	5,980,620
Filing Date	June 13, 2001
First Named Inventor	Harold Brodie
Examiner Name	Anthony Green
Group Art Unit	
Attorney Docket No.	S1011

METHOD OF PAYMENT

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number **03-0075**

Deposit Account Name **Caesar, Rivise, et al.**

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17☐ Applicant claims small entity status. See 37 CFR 1.27

- 2.
- ☐
- Payment Enclosed:

☐ Check ☐ Credit card ☐ Money Order ☐ Other**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 710	201 355	Utility filing fee	
106 320	206 160	Design filing fee	
107 490	207 245	Plant filing fee	
108 710	208 355	Reissue filing fee	\$710
114 150	214 75	Provisional filing fee	

SUBTOTAL (1) (\$)**710****2. EXTRA CLAIM FEES**

Total Claims **35** -20** = **15** x **18** = **270**

Independent Claims **9** -3** = **6** x **80** = **480**

Multiple Dependent **270** = **270**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 80	202 40	Independent claims in excess of 3
104 270	204 135	Multiple dependent claim, if not paid
109 80	209 40	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)**1020**

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for <i>ex parte</i> reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 390	216 195	Extension for reply within second month	
117 890	217 445	Extension for reply within third month	
118 1,390	218 695	Extension for reply within fourth month	
128 1,890	228 945	Extension for reply within fifth month	
119 310	219 155	Notice of Appeal	
120 310	220 155	Filing a brief in support of an appeal	
121 270	221 135	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,240	241 620	Petition to revive - unintentional	
142 1,240	242 620	Utility issue fee (or reissue)	
143 440	243 220	Design issue fee	
144 600	244 300	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	
123 50	123 50	Processing fee under 37 CFR 1.17(q)	
126 180	126 180	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 710	246 355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 710	249 355	For each additional invention to be examined (37 CFR § 1.129(b))	
179 710	279 355	Request for Continued Examination (RCE)	
169 900	169 900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)**SUBMITTED BY**

Name (Print/Type) **Robert S. Silver**

Signature _____

Registration No. **35,681**

(Attorney/Agent)

Complete (if applicable)

Telephone **215-567-2010**

Date **6/13/2001**

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Applicants : Harold Brodie, et al.
Reissue
Application : U. S. Patent No. 5,980,620
Invention : INHIBITION OF BACTERIAL GROWTH

This is a Reissue application of which includes the following:

1. Reissue Patent Application transmittal letter in duplicate
2. Fee Transmittal for FY 2001
3. A copy of original Patent No. 5,980,620 with the text reproduced in a single column.
4. A Reissue Declaration of Inventor Rainer Clover.
5. A Reissue Declaration of Inventor Harold Brodie.
6. Request for Title Report and Certification.
7. Fee Transmittal letter Reissue Application and Request To Provoke Interference
8. Written Consent of the Assignee of Patent No. 5,980,620.
Power of Attorney
9. Offer to Surrender Original Patent No. 5,980,620
10. Amendment Presenting New Claims
11. Reissue Application and Request to Provoke Interference
12. Request to Provoke Interference (37 C.F.R. §1.607)
13. Statement Under 37 CFR 3.73(b)
14. Copy of Assignment of 5,980,620
15. Return Receipt Postcard

"Express Mail" Mailing Label No. EL 729629318 US

Date of Deposit June 13, 2001

I hereby certify that the above-identified documents are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and are addressed to the Assistant Commissioner of Patents, Washington, DC 20231



Robert Fidler

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REISSUE APPLICATION
of U. S. Patent No. 5,980,620

Issued: November 9, 1999

Examiner: Anthony Green

Group Art Unit: 1755

Title: INHIBITION OF BACTERIAL GROWTH

FEE TRANSMITTAL LETTER
REISSUE APPLICATION AND REQUEST TO PROVOKE INTERFERENCE

Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

Accompanying this Letter is a Reissue application for the above patent. Please charge the reissue filing fee of \$710.00 for a large entity and any additional fees or deficiencies to perfect the Reissue application and/or request to provoke Interference, as well as for any additional claims presented in the accompanying Amendment Presenting New Claims to attorneys' deposit account no. 03-0075.

A duplicate copy of this letter is enclosed.

Respectfully submitted,

June 13, 2001

By

Alan H. Bernstein
Robert S. Silver
Caesar, Rivise, Bernstein,
Cohen & Pokotilow, Ltd.
1635 Market Street
Philadelphia, PA 19103-2212
(215) 567-2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REISSUE APPLICATION
of U. S. Patent No. 5,980,620

Issued: November 9, 1999

Examiner: Anthony Green

Group Art Unit: 1755

Title: INHIBITION OF BACTERIAL GROWTH

REQUEST FOR TITLE REPORT AND CERTIFICATION

Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

Applicant requests a Title Report and certification to be placed in the above file for reissue of the above patent.

The Commissioner is authorized to charge the fee of \$25.00 and any additional fees and deficiencies which may be required for the title Report and certification to attorneys' deposit account no. 03-0075. A duplicate copy of this Request is enclosed.

Respectfully submitted,

June 13, 2001

By

Alan H. Bernstein
Robert S. Silver
Caesar, Rivise, Bernstein,
Cohen & Pokotilow, Ltd.
1635 Market Street
Philadelphia, PA 19103-2212
(215) 567-2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REISSUE APPLICATION
of U. S. Patent No. 5,980,620

Issued: November 9, 1999

Examiner: Anthony Green

Group Art Unit: 1755

Title: INHIBITION OF BACTERIAL GROWTH

OFFER TO SURRENDER ORIGINAL PATENT NO. 5,980,620

Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

The undersigned attorney, who was also the attorney of record in the original prosecution of the above patent on behalf of the patentee applicant, hereby offers to surrender the above original patent, upon the granting of a reissue patent. At such time as allowable subject matter is indicated in the reissue application the original patent shall be forwarded to the United States Patent and Trademark Office.

Respectfully submitted,

By

Alan H. Bernstein
Robert S. Silver
Caesar, Rivise, Bernstein,
Cohen & Pokotilow, Ltd.
1635 Market Street
Philadelphia, PA 19103-2212
(215) 567-2010

4/13, 2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REISSUE APPLICATION
of U. S. Patent No. 5,980,620

Issued: November 9, 1999

Examiner: Anthony Green

Group Art Unit: 1755

Title: INHIBITION OF BACTERIAL GROWTH

REQUEST TO PROVOKE INTERFERENCE (37 C.F.R. §1.607)

Commissioner for Patents and Trademarks
Washington, DC 20231

The inventors request that an interference be declared with U.S. Patent No. 6,093,407. That interference would be between the present '620 patent, and if necessary, U.S. Patent No. 6,129,782, which is a continuation of the '620 patent. The present '620 inventors have copied at least one claim from the '407 patent as shown in the accompanying Amendment Presenting New Claims. The '407 patent issued on July 25, 2000, which is less than one year ago.

Proposed Counts:

The proposed counts are as follows:

Count 1: (Claim 1 of U.S. Patent No. 6,093,407) An anti-microbial powder coating composition comprising an anti-microbial agent homogeneously dispersed within the particles of a resin based powder.

Count II: (Claim 2 of U.S. Patent No. 6,093,407) The composition of count 1, wherein the powder coating composition comprises 90 to 99.9% by

weight of one or more thermosetting and/or thermoplastic compositions based on epoxy, polyester, acrylate, and/or polyurethane resins and 0.1 to 10% by weight of one or more anti-microbial agents.

Count III: (Claim 8 of U.S. Patent No. 6,093,407) The composition of count 1 wherein said anti-microbial agent further comprises solid anti-microbial agents.

Support for Count I in Application as Filed

The first portion of Count I appears as proposed claim 10 in the reissue application, which is copied from claim 1 of '407 patent. Support for all features of count I can be found in ASN 09/201,287, as filed, granted as the '620 patent. Paragraph 2 of page 1 of the application as filed discloses a powder coating composition containing a biocide. Paragraph 4 of page 2 of the application as filed discloses a range of micro-organisms that the biocide is active against. Lines 3-6 of page 2 of the application as filed disclose resin based polymer powders. Paragraph 3 of page 4 of the application as filed discloses the substantially homogeneous distribution of the biocide in the polymer powder.

Count II is proposed claim 11 in the reissue application which is copied from claim 2 of '407 patent.

Support for Count II in Application as Filed

Count II is supported in the specification at lines 11-12 of page 3 of that application. These lines state that useful proportions of biocide are from 0.1 to 10% by weight of the total powder composition. It therefore follows that 90 to 99.9% of the total powder composition will comprise the polymer powder. Claim 10 of the earlier application discloses

the use of thermosetting polymer powders in the composition. Claim 11 as filed discloses the use of thermoplastic polymer powders in the composition.

Support for Count III in Application as Filed

Count III is proposed claim 12 of the reissue application which is copied from claim 8 of '407 patent.

The third claim of count I is supported on page 2, lines 18-23 of the application as filed which states that many suitable biocides may be employed in the invention. The criteria for a suitable biocide is that the biocide can be provided in a suitable powder form and that it can survive the coating process. It follows from this statement that the use of solid anti-microbial agents is supported by this disclosure.

Count IV: (Claim 12 of U.S. Patent No. 6,093,407) A method for preparing an anti-microbial powder coating composition comprising homogeneously mixing an anti-microbial agent into a powder coating pre-mix.

Support for Count IV in Application as Filed

Count IV appears as proposed claim 16 in the reissue application, which was copied from claim 12 of the '407 patent.

Support for Count IV is found in the application as filed. Line 3, page 1 of the application as filed states that it is one object of the invention to provide an anti-bacterial coating composition to be applied to a substrate. This protection is extended to a wider range of micro-organisms in lines 16-18 of page 2 of the application. A method for preparing the anti-microbial powder coating composition by homogeneously mixing an anti-microbial agent into a powder coating pre-mix is disclosed at page 4, lines 9-11 of the application as filed.

6/13, 2001

Respectfully submitted,

By

Alan H. Bernstein
Robert S. Silver
Caesar, Rivise, Bernstein,
Cohen & Pokotilow, Ltd.
1635 Market Street
Philadelphia, PA 19103-2212
(215) 567-2010

FILED "3900" 2001 JUN 13 PM 02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REISSUE APPLICATION
of U. S. Patent No. 5,980,620

Issued: November 9, 1999

Examiner: Anthony Green

Group Art Unit: 1755

Title: INHIBITION OF BACTERIAL GROWTH

REISSUE APPLICATION AND REQUEST TO PROVOKE INTERFERENCE

Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

Pursuant to 37 C.F.R. § 251, the inventors, through the Assignee, hereby request the United States Patent and Trademark Office (PTO) to reissue the original claims of U.S. Patent No. 5,980,620 ("the '620 patent") as well as to allow the newly added claims, in view of an error without deceptive intent, in failing to include the newly presented claims in the original patent application. The '620 patent is wholly or partly invalid by the failure to claim all the inventors had a right to claim.

The inventors also request that an interference be declared with U.S. Patent No. 6,093,407. That interference would be between the present '620 patent, and if necessary, U.S. Patent No. 6,129,782, which is a continuation of the '620 patent. The present '620 inventors have copied at least one claim from the '407 patent as shown in the accompanying Amendment Presenting New Claims. The '407 patent issued on July 25, 2000, which is less than one year ago.

INTRODUCTION

This Reissue Application includes the following documents:

1. A copy of original Patent No. 5,980,620 with the text reproduced in a single column;
2. A Reissue Declaration of each of the inventors;
3. Request for Title Report and Certification;
4. A filing fee authorization letter;
5. Consent of the Assignee;
6. Offer to Surrender Original Patent No. 5,980,620;
7. Amendment Presenting New Claims; and
8. Request To Provoke Interference.

THE ERROR WITHOUT DECEPTIVE INTENT

The inventors recently discovered that they had claimed less than they had a right to claim and that this error occurred without deceptive intent. The inventors so realized upon reviewing subsequently issued U.S. Patent No. 6,093,407 issued to DuPont Powder Coatings. The above inventors are also the inventors of U.S. Patent No. 6,129,782, also owned by the same Assignee of the '620 patent, which was a continuation of the '620 patent.

REQUEST TO PROVOKE INTERFERENCE

It is requested that an interference be provoked with U.S. Patent No. 6,093,407 issued to DuPont Powder Coatings. In the accompanying Amendment Presenting New Claims, newly presented claims 10 and 16 are copied from U.S. Patent No., 6,093,407 as required to provoke the interference. The accompanying document

entitled Request To Provoke Interference provides the proposed counts and other information required by Rule 607.

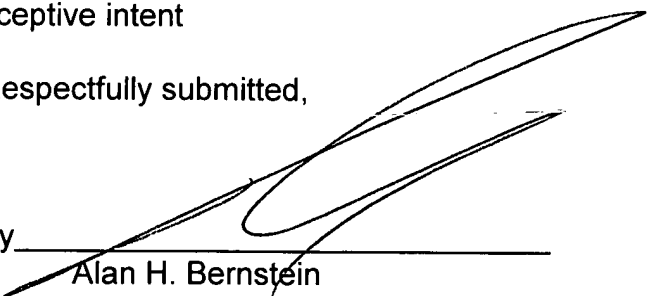
CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that all of the original and newly presented claims are patentable over the prior art. The failure to include the newly presented claims occurred without any deceptive intent

Respectfully submitted,

June 13, 2001

By



Alan H. Bernstein
Robert S. Silver
Caesar, Rivise, Bernstein,
Cohen & Pokotilow, Ltd.
12th Floor - Seven Penn Center
1635 Market Street
Philadelphia, PA 19103-2212
(215) 567-2010
Fax: (215) 751-1142
Attorneys for Applicants

100-300000-000000